

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
MISSISSIPPI STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
JACKSON CITY BRANCH OF THE
NAACP; DERRICK JOHNSON; FRANK
FIGGERS; CHARLES TAYLOR;
MARKYEL PITTMAN; CHARLES JONES;
and NSOMBI LAMBRIGHT-HAYNES,

Plaintiffs,

v.

TATE REEVES, in his official capacity
as Governor of the State of Mississippi;
SEAN TINDELL, in his official capacity
as Commissioner of Public Safety; BO
LUCKEY, in his official capacity as
Chief of the Mississippi Department of
Public Safety Office of Capitol Police;
MICHAEL K. RANDOLPH, in his
official capacity as Chief Justice of the
Mississippi Supreme Court; and LYNN
FITCH, in her official capacity as
Attorney General of the State of
Mississippi,

Defendants.

Case No. 3:23-cv-272-HTW-LGI

**PLAINTIFFS' NECESSITOUS AND
URGENT MOTION FOR A
TEMPORARY RESTRAINING
ORDER**

Section 1(1)-(2) of H.B. 1020, enacted into law on April 21, 2023, requires Defendant Randolph to appoint four judges to the Hinds County Circuit Court for nearly four-year terms by May 8, 2023—within the next 10 days. The statute further permits these judges to reside anywhere in the State rather than in the county where they serve.

Residents of all other counties in Mississippi have the right to vote for their Circuit Judges, and those judges must reside in the county where they serve. Because the population of Hinds County is overwhelmingly Black and the appointments provision is infected with discriminatory intent, Plaintiffs assert that H.B. 1020 deprives them of those rights available to residents of all other counties in violation of the Equal Protection Clause of the Fourteenth Amendment.¹

Pursuant to Fed. R. Civ. P. 65, Plaintiffs respectfully move this Court for a temporary restraining order immediately enjoining Defendants from appointing judges to the Hinds County Circuit Court. Plaintiffs are *not* seeking an ex parte order. To the contrary, summons have been served on the Defendants, and attorneys for several of them have entered appearances and have been served with copies of the motion. Furthermore, copies of the Complaint and this motion have been served on the Attorney General, both as a professional courtesy and in compliance with Fed. R. Civ. P. 5.1(a)(2).

This motion is supported by Plaintiffs' Memorandum in Support of Necessitous and Urgent Motion for a Temporary Restraining Order, a copy of H.B. 1020 (attached as Exhibit 1), the Declaration of Charles Taylor (attached as Exhibit 2), the Declaration of Frank Figgers (attached as Exhibit 3), and the Declaration of Nsombi Lambright-Haynes (attached as Exhibit 4). As set out in the accompanying memorandum, Plaintiffs have shown that they are substantially likely to succeed on the merits of their equal protection

¹ Plaintiffs have also raised in their Complaint challenges to a number of other features of H.B. 1020 and S.B. 2343, but because those provisions are implemented on a later time frame, they are not included in this request for expeditious relief.

challenge to H.B. 1020's judicial appointment provision. Plaintiffs have also shown a substantial threat of irreparable injury, for which there is no adequate remedy at law, if H.B. 1020 is not enjoined before the Circuit Court is packed within the next 10 days. Further, vacating these state-court appointments after the fact would be more disruptive to the Hinds County Circuit Court and litigants before it than temporarily enjoining the appointments while the parties litigate and the Court rules on the motion for a preliminary injunction that Plaintiffs will file.

Plaintiffs submit that the attached memorandum sets forth sufficient grounds for a preliminary injunction, but there are additional facts and legal arguments that Plaintiffs wish to add in support of a preliminary injunction. However, due to the exigent circumstance created by the 15-day deadline for Defendant Randolph to appoint the additional judges, Plaintiffs are constrained to seek a temporary restraining order, supported by this memorandum which is a summary of their arguments why the appointments provision of H.B. 1020 violates the Equal Protection Clause.

Accordingly, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for a Temporary Restraining Order to maintain the status quo and set a schedule for briefing and a hearing on Plaintiffs' forthcoming motion for a preliminary injunction.

Respectfully submitted this 28th day of April, 2023.

/s/ Eric H. Holder, Jr.

Eric H. Holder, Jr.,* DC Bar # 303115
Carol M. Browner,* DC Bar # 90004293
Megan A. Crowley,* DC Bar # 1049027
Gary S. Guzy,* DC Bar # 375977
Mark H. Lynch,* DC Bar # 193110
Brenden J. Cline,* DC Bar # 1021317
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Tel: (202) 662-6000
Fax: (202) 662-6291
eholder@cov.com
cbrowner@cov.com
mcrowley@cov.com
gguzy@cov.com
mlynch@cov.com
bcline@cov.com

Counsel for NAACP

**Pro Hac Vice Applications to be Filed*

/s/ Carroll Rhodes

Carroll Rhodes, Esq. MS Bar, # 5314
LAW OFFICES OF CARROLL RHODES
POST OFFICE BOX 588
HAZLEHURST, MS 39083
Telephone: (601) 894-4323
Fax: (601) 894-1464
crhode@bellsouth.net

Janette Louard,* OH Bar # 066257
Anthony Ashton,* MD Bar # 9712160021
Joe R. Schottenfeld,* DC Bar # 1735796
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
4805 Mt. Hope Drive
Baltimore, MD 21215
Tel: (410) 580-5777
Fax: (410) 358-9350
jlouard@naacpnet.org
aashton@naacpnet.org
jschottenfeld@naacpnet.org

Counsel for All Plaintiffs

**Pro Hac Vice Applications to be Filed*

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2023, I electronically filed the foregoing Plaintiffs' Necessitous and Urgent Motion for a Temporary Restraining Order with the Clerk of the Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Carroll Rhodes
Carroll Rhodes